
SBC IP Services Forbearance Petition

Docket WC 04-29

April 12, 2005

SBC's Petition Should Be Denied

- SBC seeks vague and overly broad regulatory relief for what it terms “IP Platform Services.”
 - At a minimum, SBC’s petition would eliminate the FCC’s ability to regulate “IP Platform Services” via Title II common carrier regulations.
- SBC’s request for forbearance is without merit.
 - Where a carrier has market power over last mile facilities, the FCC must continue to regulate under Title II to maintain competition.
 - In any event, even where there are no market power issues, the FCC needs to retain Title II common carrier regulation.
 - » Scope of requested relief is overly broad, seeks relief from all Title II regulations.
 - » FCC’s authority to re-impose regulation via Title I is limited.
 - These issues are pending in other proceedings before the Commission.



Continued Regulation of the Last Mile Remains Necessary

- Regulation should distinguish between the physical and application layers.
 - Where there is currently market power, as in the last mile, the FCC must regulate to make sure the public interest is served.
 - Regulating transmission facilities is not “regulating the Internet.”
- SBC only gets the story half right.
 - MCI agrees with SBC that IP **applications** are information services not subject to Title II, and thus, no forbearance necessary.
 - SBC has not demonstrated that, with respect to last-mile transmission facilities, competition is sufficient to constrain SBC from imposing unjust, unreasonable and discriminatory rates and from harming consumers and the public interest.



Scope of Requested Relief is Vague and Overly Broad

- **SBC's petition would remove all Title II regulations, including:**
 - Section 201(b) requirements for just and reasonable rates and practices.
 - Section 202(a) prohibition on discriminatory conduct.
 - Sections 206-208 complaint process for consumers and competitors.
 - Section 214 requirements for new, discontinued or transfers of service.
 - Section 251(a) duty to interconnect.
 - Section 251(b) duties to resell, port numbers, provide access to rights-of-way.
 - Section 254 universal service requirements.
 - Section 272(e) ban on discrimination in provisioning.
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Petition if Granted Would Cause Harm to Consumers

- Application and content providers rely on SBC transmission facilities to access end users.
- SBC would have both the incentive and the ability to restrict competitors' access to end users.
 - End users would be prevented from enjoying applications or content from providers of their choice.
 - SBC's affiliated ISP would have an unfair advantage if its competitors could not access end users.
 - No recourse if SBC engages in anticompetitive conduct, such as failing to port numbers to VoIP providers, interconnect with VoIP providers, or failing to provide last-mile facilities to ISPs at reasonable rates.
 - Increased prices because of a lack of competition and no effective rate regulation.